



Billing Code: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-307-824]

Ferrosilicon from Venezuela: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (“the Department”) preliminarily determines that ferrosilicon from Venezuela is being, or is likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 733(b) of the Tariff Act of 1930, as amended (“the Act”). The period of investigation is July 1, 2012, through June 30, 2013. The estimated weighted-average dumping margins of sales at LTFV are listed in the “Preliminary Determination” section of this notice. Interested Parties are invited to comment on this preliminary determination. Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we intend to make our final determination not later than 135 days after publication of this preliminary determination in the Federal Register.

DATES: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.)

FOR FURTHER INFORMATION: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2593.

SUPPLEMENTARY INFORMATION:

On August 8, 2013, the Department initiated the antidumping duty investigation on ferrosilicon from Venezuela.¹

Scope of the Investigation

The merchandise covered by this investigation is all forms and sizes of ferrosilicon, regardless of grade, including ferrosilicon briquettes. Ferrosilicon is a ferroalloy containing by weight four percent or more iron, more than eight percent but not more than 96 percent silicon, three percent or less phosphorus, 30 percent or less manganese, less than three percent magnesium, and 10 percent or less any other element. The merchandise covered also includes product described as slag, if the product meets these specifications.

Ferrosilicon is currently classified under U.S. Harmonized Tariff Schedule (“HTSUS”) subheadings 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Postponement of the Preliminary Determination

Based on a timely request from Petitioners,² on December 23, 2013, the Department postponed the deadline for the preliminary determination by 50 days to March 4, 2014, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).^{3,4}

¹ See Ferrosilicon From the Russian Federation and Venezuela: Initiation of Antidumping Duty Investigations, 78 FR 49471 (August 14, 2013).

² Petitioners are Globe Specialty Metals, Inc.; CC Metals and Alloys, LLC; the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America.

³ See Ferrosilicon From the Russian Federation and Venezuela: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 78 FR 77423 (December 23, 2013).

Methodology

The Department conducted this investigation in accordance with section 731 of the Act. Constructed export prices have been calculated in accordance with section 772 of the Act. Normal value has been calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, which is hereby adopted by this notice.⁵ The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). IA ACCESS is available to registered users at <https://iaaccess.trade.gov>, and is available to all parties in the Department's Central Records Unit, located at room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

⁴As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013. See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013). The tolled deadline for the preliminary determination of this investigation was January 13, 2014.

⁵See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations "Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Ferrosilicon from Venezuela," dated concurrently this notice ("Preliminary Decision Memorandum").

Producer or Exporter	Weighted-Average Margin
FerroAtlantica de Venezuela	27.27 percent
All Others	27.27 percent

Pursuant to section 735(c)(5)(A) of the Act, the “All Others” rate is based on the weighted-average dumping margin calculated for FerroAtlantica de Venezuela, the only company for which the Department calculated a rate.

Disclosure and Public Comment

The Department will disclose the calculations used in our analysis to parties in this investigation within five days of the date of publication of this notice. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁶ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety in IA

⁶ See 19 CFR 351.309(c) and (d).

ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.⁷

Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing. Interested parties are invited to comment on the preliminary determination of this review.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of ferrosilicon from Venezuela, as described in the "Scope of the Investigation" section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit⁸ equal to the preliminary weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in

⁷ See 19 CFR 351.310(c).

⁸ See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations, 76 FR 61042 (October 3, 2011).

the event of a negative preliminary determination, a request for such postponement is made by Petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On January 14, 2014, FerroVen requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (135 days after publication of the preliminary determination), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period.⁹ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting producer/exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of this notice in the Federal Register. We are also extending the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period.

U.S. International Trade Commission (“ITC”) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of ferrosilicon from Venezuela before the

⁹ See Letter to the Secretary of Commerce from FerroVen “Request for Extension of Final Determination” January 14, 2014.

later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: March 4, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

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3. Scope Comments
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